

1FW

THE UNITED STATES PATENT OFFICE APPEARS TO BE CORRUPTED

TO: The United States Patent Office
Atten. Steven Brantley, Office of Petitions
Plus a Senator and Media

FROM: Edward Linsley
P.O. Box 238
Wetumpka, Alabama 36092
(334) 567-2848
July 19, 2006

Ref: Application No. 10673866
Twister Wings Sailboat
Dated 09/29/2003

I am a retired aerospace engineer whose primary employment was with the von Braun rocket team in Huntsville, Alabama, for nearly twenty years, from 1951 to 1971. My guide for the rules and writing of a patent application were obtained from patent attorney David Pressman's manual, "Patent It Yourself". This should qualify me for the proper presentation of a patent application. **Encl. 1** shows an inventory of my original patent application including a backup copy of the postcard, which was never stamped at the Patent Office and returned.

Normally, a utility patent requires about two years to process if intellectual rights are not challenged. Also, my sailboat design is so novel and unobvious that a search of the literature reveals no prior art.

CHRONOLOGY OF DECEIT

My application languished in the Office of Initial Patent Examination (OIPE) for over two years without an Official Filing Receipt, a Filing Date, or an Assignment to an Examining Group or even the return of my Postcard listing the contents of the application. However, there was one contact from the Patent Office on Oct. 6, 2003, just one week after receipt of the application. It required changing four Claims to Independent at a charge of \$168 to my credit card on file. Fortunately, this established that the Patent Application was received and opened, although subsequent calls to the Patent Office could not even account for the existence of my Application. It was only when I contacted a Ms. Robinson in the OIPE, two years later, on Oct. 27, 2005, that she proceeded to have it processed.

Then I was besieged with letters stating that 'no filing date has been accorded' and 'basic parts are missing,' such as Claims, Declaration, and three numbered *figures* shown in a letter of Oct. 28, 2005, **Encl 2**, *dated just one day* after my call to Ms. Robinson. It was just sitting there waiting for me to make contact. I responded on Nov. 18, 2005 with the missing parts plus a \$400 charge to my credit card as also shown in **Encl 2**. Then a new *Filing Date* and *restart* of my Patent was dictated in a letter of Dec. 21, 2005, **Encl 3**, and also in a following letter of April 28, 2006. And I would still owe more money. Both of these letters show that they had to recognize the seven independent Claims but it also shows that only 7 *drawings* (not figures) are allowed. I admit that I am guilty of being inconsistent with terms used for figures but so is the Office, therefore, **Encl. 4** is included herein for clarification. Even if the Office were to change it to 7 *Figures* I would still have to rewrite my Patent even though I had just sent in *all Figures* in

response to the first letter. I haven't been able to determine what fees I would actually owe if I were to respond to all their demands.

Next, I mailed a letter and complete documentation to Joseph J. Rolla, Deputy Commissioner for Patent Examination Policy, (That position is presently held by Acting Deputy Jay P. Lucas). However, the letter made its way directly to the OIPE the day after being received at the Office on Apr. 6, 2006, as shown by the postal tracking and by their stamp on the Postcard which was returned and is also shown in **Encl. 4**. To sum up, the Office refused to acknowledge my application and kept it incognito for over two years until forced to acknowledge it in 2005. Then I would be charged for each of the items that they claimed were missing and they would also restart my Patent with three 'drawings' still missing. Then my letter to the Commissioner was routed right back to the OIPE. The Patent Office Rules do not allow these kinds of devious manipulations in a United States government agency. How many applicants are forced in this manner to give up their dreams? I conclude that a company, a research group or even an individual who retains a patent lawyer would not be subjected to this kind of treatment.

I finally contacted attorney Steven Brantley of the Office of Petitions in the Division that establishes policy standards, **Encl. 5**. This resulted in his letter dated Jun 07, 2006, which is presented in **Encl. 6**. Begin with the six full sentences on the top of page 2. They state that the original application papers were inaccessible because they had been incorrectly scanned and indexed. That was news to me. They even use the word *appears* which seems to be a weasel word in case they are pinned down later. **This letter was the first time that I heard that my Application was missing. This is two years and eight months from the date that I had mailed it in.** Then it notes that some of my papers mailed one month after my Application, on Oct. 30, 2003, were properly scanned and indexed, implying that this became the total substance of my Application. Is there any *due process* up there? My next question is, "What were they going to do with those Missing Parts of **Encl. 2** if there was no place to send them?" Their first letter should have asked me to mail another copy of everything, right after they lost them. Why does this make me feel that most of their letters were contrived?

On the middle of page 3, the Office letter contradicts my statement that I never received my return postcard with my initial Application. This was fabricated. I retain a copy of every document, coming or going and the postcard does not have the OIPE date stamp because it was never returned. **Encl. 1** shows a copy of the initial Inventory page with the *copy* of the postcard.

On page 4, a single sentence states that, 'Petitioner filed the instant petition on April 7, 2006.' That is my detailed, 50 page letter of complaint to Mr. Rolla, **Encl. 4**, in which my 'proposal' was for the Patent Office to retroactively credit the time to the present and to have my Application assigned to a reviewer. That sounds like a play on words implying that I petitioned to restart my patent.

The Office letter continues on page 4 to require *all* application papers to accord an application for the original filing date of Sept. 29, 2003. I do specifically, require the original filing date. My patent protection begins on its filing date and if anyone else submits a patent before mine, my patent would be compromised. I have been testing my prototype sailboat in public waters, and the

patent has now been on file in the Patent Office for two years, nine months. The Patent Office created this delay and it continued even after I authorized the \$400 payment when sending in 'Missing Parts' in November, 2005. Now it is time for the Patent Office to atone for their actions. I specify my requirements below.

On the top of page 5, it is stated that I wish to amend the original papers due to the papers filed on Oct. 30, 2003. These were related only to allowable correction numbers in the text and to a pair of parts identity numbers on a drawing.

The CD/DVD mentioned at the bottom of page 5 refers to a single DVD of video clips of some of the first tests of my prototype sailboat. The disc is identified on its surface as a DVD and includes an identification of the subject matter, with permanent ink. It was included in the letter to Mr. Rolla as shown in **Encl. 4**. No CD existed. Also, I am unable to determine how to present a paper version of the sailing performance of any sailboat. Besides it was for Mr. Rolla for information only, and has nothing to do with the technical status of the present Application.

Now let us have reality check while observing **Encl's 1, 2 and 6**. In my original patent Inventory, the folders listed in **Encl. 1** were each packaged in separate 9 x 12 envelopes.

The Claims were in the Specification folder, on page 31.

The Declaration was in the USPTO Forms folder.

All Figures (6 pages) were in their own folder, including Figs. 6, 9, and 10.

These are the missing parts stated in **Encl. 2**.

According to the Office letter, the "USPTO was unable to locate the original, physical application papers," They have never said when my application papers were lost, except that, on page 2, they were not available on August 10, 2005.

Let's look at this in another way. Say I have a Maserati that needs to be serviced but the nearest dealer is in Atlanta. I have it sent over there and then wait for a few months. Then I call the dealer and he tells me that it needs a computer, a fuel pump and three injectors. Then I wait some more before calling again and this time, I am informed that they had not been able to locate the car. However, they do have a new one in stock at an MSRP of \$119,905 which, of course, is also a price increase compared to the cost my original car.

The Patent Office apparently illegally charged me to change all of my claims to independent. I discovered this at the end of this write-up when I checked through my random papers and found an update on costs and some procedures that took place on October 1, 2003, the beginning of the federal fiscal year. **Encl. 7** shows claim changes for old fees on the left and new fees on the right where the slash represents '(Large/Small Entity)' fees.

These extra fees would represent the current change to any list of claims that did not meet the standard at the time they were initially presented in an application. My application is dated 09/29/2003, two days before the procedural updates became effective on October 1st. If I were legitimately charged to change the character of my claims, what was wrong with them? My "Patent It Yourself" manual, Edition 9.3 was published in February, 2003 and I matched my format to the illustrations, as shown on the left side of the second page of **Encl. 7**. Then in my

10th and 11th Editions of "Patent It Yourself", my claims would have to look as shown on the right side of **Encl. 7**. The only change was to the first number, defined as a bold 1. If I am correct in assuming the update to a bold 1 also took place on October 1, 2003, this was a **theft** and the Patent Office owes me \$168 credited to my credit card on file.

By the time I wrote the Rolla letter, I knew that I was being taken for a ride but I didn't know who was driving. After I received the present Office letter, I know one of the drivers.

MY RESPONSE AND RESTART OF MY APPLICATION

I intend to send in a modified version of my original application without changing the specification, wording, conclusions or layouts of the text. 'Modified version' means that I will include the normal, allowed corrections to the text that I have already made and to place parts identity numbers on two Figures. The Specification will end on page 30 so that the Claims page and the Abstract page will both stand alone. **Encl. 1** shows the original Patent Application Inventory. Now, a new Inventory will be included with the 'Writing Format of Specification' deleted, the 'Index of Specification Subjects' deleted, the 'Prototype Development' deleted, the reference to the 'Disclosure Document' deleted, and the 'Fee Transmittal' deleted, but all the other forms will be copies of the originals with the corrections noted above.

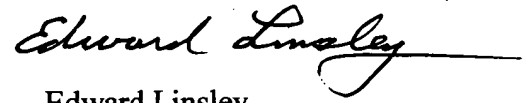
Now hear this! I will not include this modified, replacement version of my Patent Application along with this letter to the Patent Office. My first Application *appeared* to be lost and two complete sets of replacement Figures were discarded. Therefore, within the two months to respond to this letter, I require a specific, responsible, named person to send me a note by mail with name, signature and specific mailing address which will deliver my Application to that person. Then when the Application is received, sign and date my stamped return postcard, followed with the immediate processing of my modified Application.

Retroactively keep my Patent Application dated on Sept. 29, 2003. No excuses!

Follow immediately with an Official Filing Receipt, acknowledging the Filing Date and Serial Number of my Application, and the Examining Group to which my Application has been assigned. Follow this with a priority request for implementation by a reviewer. After all this time to analyze and state my position, I will not be sympathetic to having my Application being stalled in a dead letter file or with an examiner who has his own agenda. Accelerate my Application through the process. **Encl. 8** displays three previous sailboats that I designed, built and tested, beginning in the latter sixties. The third print shows the sailboards which eventually became the wings of my prototype and, although too small because of the size of the boards, this boat does represent a winner which I am not about to abandon. The entire Specification is written to provide a boat builder with the parameters that will make the concept work along with their own expertise with materials, fabrication, and safety margins plus my descriptions of the unique sailing properties provided by wings. My Claims are related only to the geometric variations on the underside of wings fixed to the sides of any monohull boat. The prototype is proving the concept.

Follow with posting Fig. 5 and the Abstract, on the Official Gazette leading toward a patent six months later with at least a seventeen year duration.

A Patent Office response to this letter is required no later than two months from the date of this document.


Edward Linsley

In retrospect, I am not confident that my demands may produce any satisfactory results from the Patent Office. My letter to Mr. Rolla was never mentioned by Mr. Brantley. It actually contained a tirade of frustration over the initial Patent Office demands. Apparently it had no beneficial influence on the tone of the letter from Mr. Brantley. Therefore, I have to conclude that whatever I present may have no effect on their mindset. Since that is probable, the following Additional Distribution list is included.

ADDITIONAL DISTRIBUTION LIST:

Senator Richard Shelby
110 Hart Senate Office Bldg.
Washington, D.C. 20510

The Wall Street Journal
Editorial Department
200 Liberty Street
New York, N.Y. 10281

The Washington Post
Editorial Department
1150 15th Street, N.W.
Washington, D.C. 20071

Of course, it is not usually wise for the uninformed to tell any organization how to run their business. However when that business is a U.S. Government operation which has a monopoly for providing a necessary service and they reduce their number of customers with a slash and burn operation, their customers need to be heard. Therefore, this Distribution List is included.

Since I cannot have a meaningful discourse with the Patent Office, I have to make this diatribe public in order to be heard. But I cannot impose my burdens on you without your approval so I am hoping that just being aware that a United States Senator and icons of the media have knowledge of the situation, may be a wake-up call for the Patent Office. My U.S. Senator may have encountered this situation before and when he speaks, people listen. I cannot judge how the media fits into this situation but if you wish to remain as silent partners, I will accept that and will keep you informed. If not, just drop me a note saying that you Opt-Out. However, since I am becoming a little paranoid, it would be helpful if you could communicate with some means that will assure me of the source. Of course, if you express support publicly, I will definitely accept that for whatever method you choose. Also, even though you may not want to participate actively, I would appreciate any knowledge of agencies, advocates or institutions that could provide assistance or suggestions that might help my cause. However, please identify your organization so that I may judge authenticity and I pledge that your information will remain confidential.

As a backup, I have established and registered a Domain name for use on a website of my own. I may present my plight for the input of public opinion which may include hearing from many frustrated would-be inventors who have been squashed just like me.

Thank you, for whatever

Edward Linsley



Encl 1

Patent Application Inventory

Folder -- Specification - 32 pages
Writing Format of Specification
Index of Specification Subjects

Folder -- Drawings for Specification
13 Figures on 6 Pages

Folder -- Prior Art, Patent Search

Folder -- Prior Manufactured Art

Folder -- Prototype Development

Folder -- USPTO Forms

Return Receipt Postcard
Utility Application Transmittal
Fee Transmittal - 2 copies of 2 pages
Declaration for Patent Application - 2 pages
Information Disclosure Statement - Prior Art Folders, above
Petition to Make Special
Disclosure Document Reference Letter - 3 pages

Valid Until Oct. 30, 2003

Patent Application of Edward Linsley for Twister Wings Sailboat consisting of 32 page Specification including Claims Abstract Index and Writing Format, 13 Drawing Figures on 6 sheets, Prior Art Patent Search, Prior Manufactured Art, Prototype Development, Utility Patent Application Transmittal, 2 copies of 2 pages of Fee Transmittal, 2 page Declaration of Patent Application signed Sept 29, 2003, Information Disclosure Statement, Petition to Make Special, and Disclosure Document Reference Letter **which shows that the Disclosure is valid until Oct 30, 2003.**



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/673,866	09/29/2003	Edward Linsley	

EDWARD LINSLEY
137 DEER CREEK ROAD
WETUMPKA, AL 36092

CONFIRMATION NO. 4632
FORMALITIES
LETTER

Date Mailed: 10/28/2005

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within TWO MONTHS of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)). Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$400.00 petition fee (37 CFR 1.17(f)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

- The specification does not include at least one claim.
A complete specification as prescribed by 35 U.S.C. 112 is required.
- The oath or declaration is missing. *A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
Note: If a petition under 37 CFR 1.47 is being filed, an oath or declaration in compliance with 37 CFR 1.63 signed by all available joint inventors, or if no inventor is available by a party with sufficient proprietary interest, is required.

The following item(s) appear to have been omitted from the application:

- Figure(s) 6, 9, 10 described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$400.00 petition fee (37 CFR 1.17(f))) with evidence of such deposit must be filed within TWO MONTHS of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition

under 37 CFR 1.182 (with the \$400.00 petition fee (37 CFR 1.17(f)) requesting the later filing date must be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(f)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **\$-168** for a Small Entity

(A previous payment of \$168 will be applied to the additional fees indicated above.)

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*

Adams
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199, or 1-800-972-6382
PART 1 - ATTORNEY/APPLICANT COPY

EDWARD L LINSLEY

Bank of America 

Customer Corner

Check your credit rating. It's a good idea to check your credit rating once a year to be sure the information provided on your credit report is accurate. You can get a free copy of your credit report annually by visiting www.annualcreditreport.com.

Account Number: _____

Your Bank of America Visa® Account

New Balance **\$400.00**

Total Credit Line	\$9,000.00	Available Credit	\$8,600.00
Cash Limit	\$9,000.00	Available Cash	\$8,600.00
Overlimit Amount	\$0.00	Billing Date	12/13/05
Minimum Payment Due	\$10.00	Payment Due Date	01/02/06

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1.800.848.6090

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POST. DATE	TRANS. DATE	REF. NO.	DESCRIPTION	AMOUNT
				CR=CREDIT
Nov 21	Nov 18	293	BRYSON VETERINARY CLINICWETUMPKA AL	\$67.00
Nov 30	Nov 25	169	US PATENT/TRADEMARK OF ALEXANDRIA VA	\$400.00
Dec 02	Dec 01	320	PAYMENT - THANK YOU	CR \$67.00

Account Summary

Previous Balance		\$0.00
Purchases	+	\$467.00
Cash Advances	+	\$0.00
Other Debits	+	\$0.00
Credits	-	\$0.00
FINANCE CHARGE	+	\$0.00
Payments	-	\$67.00
New Balance	=	\$400.00

Finance Charge Summary

	Corresponding APR	Daily (D) / Monthly (M) Periodic Rate	Average Daily Balance (ADB)	Minimum (M) / Periodic (P) Charge
Purchases	11.990%	0.03285%v D	\$0.00	\$0.00 P
Cash	22.990%	0.06299%v D	\$0.00	\$0.00 P

ANNUAL PERCENTAGE RATE 11.990%

v=Variable

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 United States Patent and Trademark Office
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 www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/673,866	11/22/2005	3617	543		7	7	7

CONFIRMATION NO. 4632

EDWARD LINSLEY
 137 DEER CREEK ROAD
 WETUMPKA, AL 36092

FILING RECEIPT



OC000000017695314

Date Mailed: 12/21/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Edward L. Linsley, Wetumpka, AL;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/673,866**

Projected Publication Date: 05/24/2007

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Twister wings sailboat



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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 P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/673,866	11/22/2005	Edward L. Linsley	

EDWARD LINSLEY
 137 DEER CREEK ROAD
 WETUMPKA, AL 36092

CONFIRMATION NO. 4632

FORMALITIES
 LETTER

Date Mailed: 12/21/2005

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted***Items Required To Avoid Abandonment:**

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- Additional claim fees of \$400 as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is \$422 for a Small Entity

- The application examination fee has not been paid. Applicant must submit \$100 to complete the examination fee for a small entity in compliance with 37 CFR 1.27
- Total additional claim fee(s) for this application is \$400
 - \$400 for 4 independent claims over 3.

(A previous payment of \$78 will be applied to the additional fees indicated above.)

Replies should be mailed to: Mail Stop Missing Parts
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

Encl 4

CLARIFICATION OF DRAWING NUMBERS

Page No. Figure No.

1/6 Fig. 1
2/6 Fig. 2, Fig. 3a, Fig. 3b
3/6 Fig. 4, Fig. 5
4/6 Fig. 6a, Fig. 6b, Fig. 6c
5/6 Fig. 7, Fig. 8
6/6 Fig. 9, Fig. 10

SUMMARY

There are six pages plus ten Figure numbers
plus thirteen actual drawings.

See Enclosure A, below, listing 10 Figures on six pages.

Edward Linsley
P O Box 238
Wetumpka AL 36092



Helix

Appl. #10673866, 09/29/2003, Twister Wings Sailboat; Letter to Mr. Joseph J. Rolla (5 pages), Boat Print, About the Prototype, Indexes for Exhibit's A & B and Enclosure A, plus DVD, Total 10 pages + DVD; **Exhibit A** index, two hand written pages to 07/23/ 2004, Request for Cert. of Correction, Contact with Electronic Bus. Center on 07/21/2005, Second contact with EBC on 10/26/2005, Response to CST ST/6A25 for duplicates on 08/11/2005 (3 pages), Contact with Mrs. Robinson of Off. of Initial Pat. Exam. On 10/27/2005, Total 10 pages; **Exhibit B** index, Contents list for Mail Stop Missing Parts, Notice of Incomplete Application (2 pages), My Response to Notice (2 pages), Original Pat. Appl. Inventory, Declaration for Pat. Appl. (2 pages), Claims, Notice to File Missing Parts (2 pages), Filing Receipt (3 pages), Total 15 pages; **Enclosure A** index, Two sets of Declaration (4 pages), Two different Claim pages, 10 Figures on six pages, Submission of Corrected Drawings (3 pages), Total 15 pages; Grand total 50 pages + DVD.



Helix


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(800)275-8777

Product Description	Sales Receipt Sale Qty	Unit Price	Final Price
ALEXANDRIA VA 22313			\$4.05

Priority Mail

1 lb. 0.00 oz.

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Label #: 03052200000175149393

Issue PVI: \$4.55

Total: \$4.55

Paid by:

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Change Due:

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Bill #: 1000402663735

Clerk: 11

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U.S. Postal Service™ Delivery Confirmation™ Receipt

Postage and Delivery Confirmation fees must be paid before mailing.

Article Sent To: (to be completed by mailer)

Mr. Joseph J. Rolla

PO Box 1450

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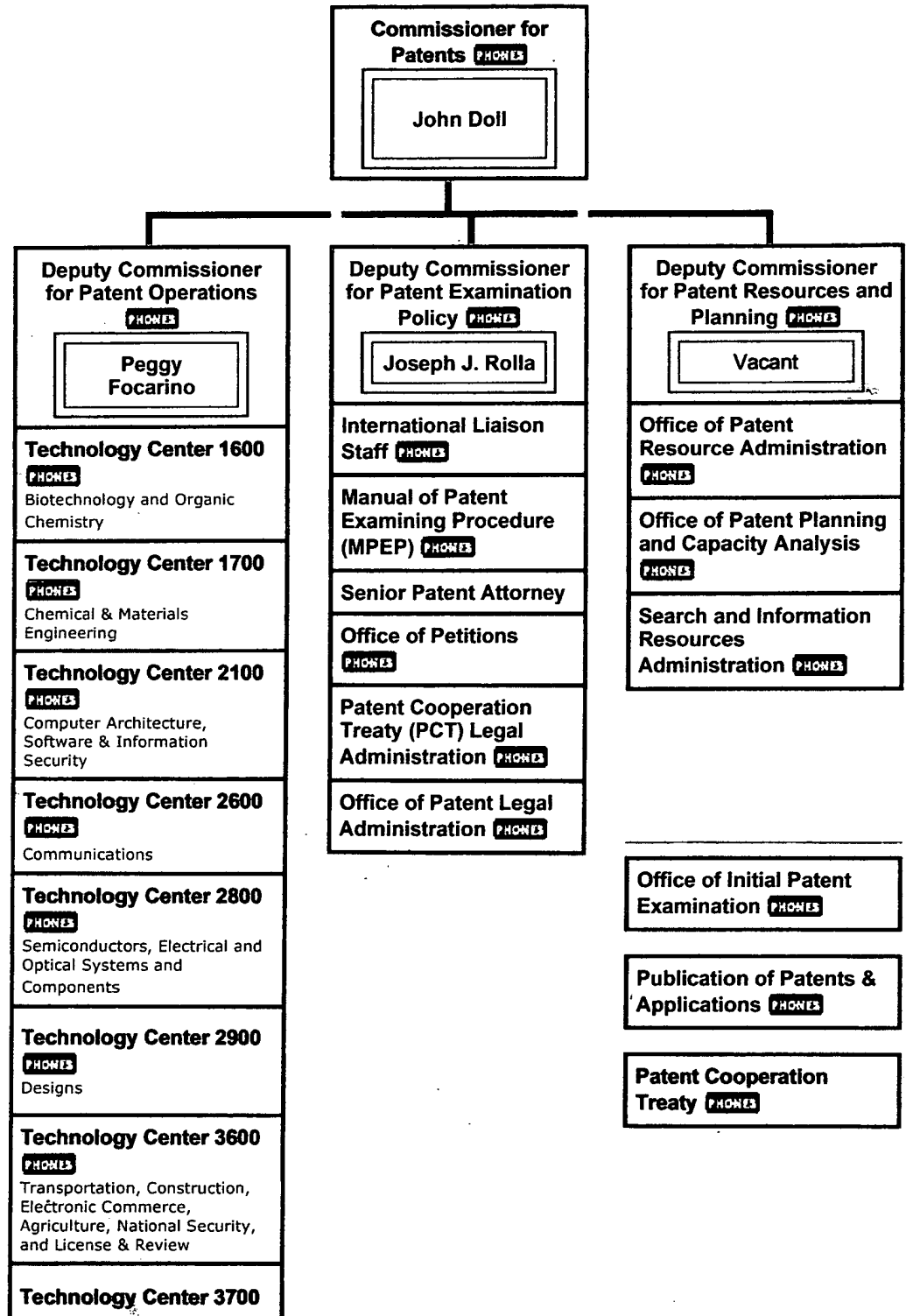
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provides direction on establishment of new rules, practices and procedures; reviews and revises the Manual of Patent Examining Procedure;

is the deciding official for petitions on patent matters delegated by the Under Secretary and Director, for ordering Under Secretary and Director ordered re-examinations, for Patent Quality Review appeals to the Commissioner for Patents, for requests for reconsideration of the Board of Patent Appeals and Interferences decisions; review of actions by the Patent Quality Review;

and provides support, representation, advice and direction on technical matters relating to the International Patent Classification (IPC) System, and other international documentation-related standards.

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Edward L. Linsley
 P.O. Box 238
 Wetumpka, AL 36092

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OFFICE OF PETITIONS

In re Application of Linsley :
 Application No. 10/673,866 :
 Filing Date: November 22, 2005 :
 For: Twister Wings Sailboat :

Decisions on Petition

This decision is in response to the papers filed on April 7, 2006, which are being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment, a petition under 37 CFR 1.181 to withdraw the Notice to File Missing Parts mailed December 20, 2005,¹ and a petition under 37 CFR 1.53 for a filing date of September 29, 2003.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **granted**.

The petition under 37 CFR 1.181 to withdraw the Notice to File Missing Parts mailed on December 20, 2005, is **dismissed as moot**.

The petition under 37 CFR 1.53 is **dismissed**.

Facts:

The application was filed on September 29, 2003.

Applicant received a phone call on October 6, 2003, from Ms. Streater at the USPTO. Ms. Streater informed applicant that his credit card had been charged the application filing fee and a fee for four independent claims. Ms. Streater also informed applicant of his application number.

On October 30, 2003, petitioner filed a "Request for Certificate of Correction."² Petitioner sought to correct errors in the specification and abstract. Specifically, petitioner sought to delete a reference to Figure 9 in paragraph 68 of the specification and to delete a reference to Figures 1 and 5 in the first sentence of the abstract. On the same date, petitioner also filed a paper entitled "Submission of Corrected Drawings." Petitioner stated he was unsure if sheet 5 of the drawings filed as part of the original application papers had included reference numbers 24 and 34 for Figure 7. Petitioner submitted a new, corrected version of sheet 5 of the drawings.

¹ The Office notes a duplicate Notice to File Missing Parts was also mailed on December 21, 2006. Any future reference to the December 20, 2006 Notice should be interpreted to also refer to the December 21, 2006 Notice.

² The Office notes that Certificates of Correction are only applicable to patents, not to patent applications.

The original application papers were "scanned" into an electronic file wrapper. The "Table of Contents" in the image file wrapper *appears* to indicate the original application included:

- 31 pages of specification, not including claims or abstract
- 1 page of claims
- 1 page of abstract
- 6 sheets of drawings
- 2 pages of oath or declaration
- 1 page of IDS
- 18 pages of non-patent literature related to IDS
- 1 page of petition
- 5 additional pages the exact nature of which is unclear

Prior to August 10, 2005, the USPTO discovered the original application papers were inaccessible because they had been incorrectly scanned and indexed. The USPTO was unable to locate the original physical application papers. The Office notes the papers mailed October 30, 2003, were properly scanned and indexed into the Image File Wrapper.

A "Notice Under 37 CFR 1.251 - Pending Application," was mailed to petitioner on August 10, 2005. The Notice stated,

The file on the cover sheet cannot be located after a reasonable search. Therefore, the Office is initiating the reconstruction of the file of the above-identified application.... Applicant is hereby requested to provide a copy of applicant's record (if any) of all the correspondence between the Office and applicant for the above-identified application [and] a list of such correspondence, and a statement the copy is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant.

Petitioner filed a reply on August 22, 2005. Petitioner stated the copy of the papers being submitted were a copy of all correspondence between the Office and applicant. However, petitioner's reply did not include a copy of *all* correspondence between the Office and applicant. Specifically, the reply did not include a copy of the original application papers filed on September 29, 2003. The specification, claims, abstract and drawing pages filed on August 22, 2005, consisted only of copies of papers filed on October 30, 2003.

Since petitioner's reply stated it included a copy of all the papers filed by petitioner or received by petitioner, the Office treated the papers filed on August 22, 2005, as if the papers were the only papers ever filed for the application. In other words, the "application" included:

- 2 pages of specification,
- 1 page of abstract, and
- 1 sheet of drawings.

A "Notice of Incomplete Nonprovisional Application" was mailed on October 28, 2005. The Notice stated a filing date had not been accorded to the application because the specification

failed to include at least one claim. The Notice stated the filing date for the application would be the date the Office received one or more claims. The Notice stated the oath/declaration was missing as well as Figures 6, 9, and 10, referenced in the specification. The Notice stated petitioner owed negative \$168 (the sum which had been charged previously for the four excess independent claims).

On November 22, 2005, petitioner filed a "Response to Notice of Nonprovisional Application, Dated 10/28/05." Petitioner also submitted \$400.

Petitioner's response stated the specification had included at least one claim. Specifically, petitioner stated 7 claims had been included on page 31 of the specification. Petitioner submitted a copy of page 31 of the specification.

Petitioner's response stated that a declaration had been included with the original papers. Petitioner submitted a new declaration.

Petitioner's response stated that Figures 6, 9, and 10 had been filed with the application. Petitioner stated the drawings had included 13 figures on 6 pages. Petitioner submitted a new copy of the drawings. The Office notes the new set of drawings included 7 sheets. A copy of the seventh sheet is attached to this decision.

Petitioner has stated the Office never returned the postcard receipt submitted with the application. However, the papers filed on November 22, 2005, did include a copy of the postcard filed with the Office. The postcard stated the following items had been filed as part of the application:

- 32 pages of specification including claims, Abstract, Index and Writing Format
- 6 sheets of drawings including 13 Figures

The postcard also stated the following papers had been filed with the original application:

- Prior Art Patent Search
- Prior Manufactured Art
- Prototype Development
- Transmittal Sheet
- 2 copies of 2 pages of Fee Transmittal
- 2 pages of signed declaration
- Information Disclosure Statement
- Petition to Make Special
- Disclosure Document Reference Letter

Although petitioner's response contended the specification had included 31 pages, petitioner only supplied a copy of page 31. As a result, the Office had received the following papers *after* it mailed the Notice under 37 CFR 1.251 on August 10, 2005:

- 3 pages of specification including 1 page of claim,

1 page of abstract, and
7 sheets of drawings.

The Office of Initial Patent Examination did not forward petitioner's November 22, 2005 response to the Office of Petitions. Instead, the Office of Initial Patent Examination simply accorded the application a filing date of November 22, 2005.

The Office mailed a Notice to File Missing Parts on December 20, 2005. The Notice stated additional fees in the amount of \$422 were required for the application. The new fee amounts were based on the fact the application had been accorded a filing date of November 22, 2005, rather than September 29, 2003. The Notice set an extendable two month time period for reply.

Petitioner filed the instant petition on April 7, 2006.

On April 28, 2006, the Office of Initial Examination withdrew the December 20, 2005 Notice. The record indicates the withdrawal may have been based on a belief the Notice had been sent to an incorrect address based on a request to change the address filed January 17, 2006. However, the Notice was mailed to the correct address of record on December 20, 2005. The Office mailed a new Notice to File Missing Parts to the new address on April 28, 2006.

Discussion:

After the loss of the application papers, the Office requested a copy of all the papers filed by applicant. Applicant did not supply a copy of all the papers. Instead, the papers filed by applicant on August 22, 2005, were incomplete. Therefore, the Office was correct in mailing a Notice informing applicant the papers were incomplete and that a filing date could not be accorded based only upon the papers filed August 22, 2005.

Unfortunately, the Notice of Incomplete Application failed to effectively communicate the nature of the problem. If the Notice had conveyed the exact nature of the problem to petitioner, petitioner could have filed a petition and a petition fee of \$400 to correct the problem. The Office notes the \$400 petition fee would not have been refundable.

A request for reconsideration should be filed in order to obtain a filing date of September 29, 2003.

The Office cannot process the application without ALL of the application papers. The fact the Office was responsible for losing the original papers does not alter the fact a copy of the papers is necessary for the examiner to consider the application.

Petitioner should submit a copy of ALL papers filed on September 29, 2003. The original application papers will consist of these papers and the application will be accorded a filing date of September 29, 2003. The request for reconsideration should include language identical to the language on the Notice Under 37 CFR 1.251 submitted by petitioner on August 22, 2005. A copy of the August 22, 2005 Notice is attached.

The papers filed on October 30, 2003, indicate petitioner wishes to amend the application. If petitioner continues to wish to amend the original papers, a *formal amendment* should be filed in compliance with 37 CFR 1.121.

The application is not abandoned.

37 CFR 1.251(b) states, "With regard to a pending application, failure to comply with [the Notice] within the time period set in the notice will result in abandonment of the application." However, the Notice mailed August 10, 2005, did not set forth a time period for reply. Therefore, the application is not abandoned as a result of a failure to file a "proper" reply to the Notice Under 37 CFR 1.251(b).

The Office mailed a Notice to File Missing Parts on December 20, 2005. The Notice set an extendable two month time period for reply. A reply could have been timely filed as late as July 20, 2006, with payment for a five month extension of time. On April 28, 2006, the Office of Initial Examination withdrew the December 20, 2005 Notice. Therefore, the application is not abandoned as a result of a failure to timely reply to the Notice to File Missing Parts mailed December 20, 2005.

The Office mailed a new Notice to File Missing Parts on April 28, 2006. Since the period for reply to the new Notice has not expired, the application is not abandoned as a result of a failure to reply to the new Notice to File Missing Parts.

The Notice to File Missing Parts mailed on December 20, 2005 has been withdrawn.

The petition under 37 CFR 1.181 to withdraw the Notice to File Missing Parts mailed on December 20, 2005, is dismissed as moot since the Office of Initial Examination withdrew the December 20, 2005 Notice on April 28, 2006.

The Notice to File Missing Parts mailed on April 28, 2006, is hereby withdrawn.

The Notice to File Missing Parts mailed on April 28, 2006, is based on a conclusion the application is not entitled to a filing date of September 29, 2003. The Office expects the application to be eventually accorded a filing date of September 29, 2003. Therefore, the Notice will be withdrawn at this time.

Petitioner may wish to submit a paper version of the information on the CD/DVD submitted on April 7, 2006.

If petitioner wishes for the information included on the CD/DVD to be considered, a paper copy of the information should be filed. As stated in the attached review of the CD/DVD, the subject matter on the CD/DVD is not matter one may submit by CD/DVD.

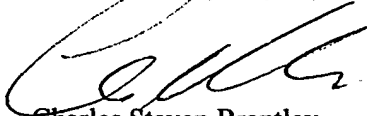
Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time

under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.53."

Further correspondence with respect to this matter should be addressed as follows:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of last sheet of drawings filed on November 22, 2005
Copy of Notice Under 37 CFR 1.251 filed August 22, 2005
Copy of "CD Submission Review Results"

Each Indep. Claim Over Three	\$84/ \$42	\$86/ \$43
Surcharge: Mult. Dep. Claims	\$280/ \$140	\$290/ \$145
Petitions to Revive Abandoned Apps.		
Unintentional Delay	\$1300/ \$650	\$1330/ \$665
Extensions: Reply to Office Actions		
2nd Month	\$410/ \$205	\$420/ \$210
3rd Month	\$930/ \$465	\$950/ \$475
4th Month	\$1450/ \$725	\$1480/ \$740
5th Month	\$1970/ \$985	\$2010/ \$1005
Appeal to Board of Appeals		
Filing Notice of Appeal	\$320/ \$160	\$320/ \$165
Oral Hearing	\$280/ \$140	
Utility Patent Maintenance Fees		
I (3.5 years)	\$890/ \$445	\$910/ \$455
II (7.5 years)	\$2050/ \$1025	\$2090/ \$1045
III (11.5 years)	\$3050/ \$1575	\$3220/ \$1610
PCT Fees		
Search Fee/In EPO	\$866	\$936
Intl. Fee/Basic	\$407	\$476
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